

OCT 27 2005**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT****ANTHONY L. NAVARRO,****Petitioner - Appellant,****v.****CAMERON LINDSAY, Warden,****Respondent - Appellee.****No. 05-55318****D.C. No. CV-03-06484-RC****MEMORANDUM***

**Appeal from the United States District Court
for the Central District of California
Rosalyn M. Chapman, Magistrate Judge, Presiding**

Submitted October 11, 2005**

Before: T.G. NELSON, WARDLAW and TALLMAN, Circuit Judges.

Anthony L. Navarro appeals the district court's denial of an evidentiary hearing. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

Navarro contends that the district court abused its discretion by denying

*** This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.**

**** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).**

his 28 U.S.C. § section 2241 petition without an evidentiary hearing. We disagree. Because Navarro has not alleged facts, which if true, would entitle him to relief, the district court did not abuse its discretion by denying his request for an evidentiary hearing. *See Bonin v. Calderon*, 59 F.3d 815, 838-39 (9th Cir. 1995).

Navarro waived any challenges to the district court's denial of his habeas petition and his motion to vacate the judgment and request for expedited discovery by not arguing them in his opening brief. *See United States v. Vought*, 69 F.3d 1498, 1501 (9th Cir.1995) (failure to argue issue raised in briefs waives the issue).

Navarro's motion to expedite is denied as moot.

AFFIRMED.